

BEFORE THE  
**Federal Communications Commission**  
WASHINGTON, D.C. 20554

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Federal Communications Commission  
Office of Secretary

In the Matter of

Advanced Television Systems  
and Their Impact upon the  
Existing Television Broadcast  
Service

MM Docket No. 87-268

TO: The Commission

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COMMENTS  
OF  
SOUTH CENTRAL COMMUNICATIONS CORPORATION

South Central Communications Corporation ("SCCC"), a long-term Commission licensee of, inter alia, eleven Low Power Television Stations ("LPTV"), by its counsel, submits hereby its comments in response to the Sixth Further Notice of Proposed Rulemaking ("the Notice") in the captioned proceeding.<sup>1/</sup> In furtherance whereof, the following is shown.

PRELIMINARY STATEMENT

At the outset, SCCC respectfully submits that reason, the historical operating record as well as controlling law and policy plainly dictate that the Commission make adequate provision for the viable continuation of the existing LPTV service incident to establishing the final model for the initiation of a nationwide, advanced digital television ("DTV") service. SCCC acknowledges that the Commission's task in initiating that service is daunting and presents a variety of exceptionally difficult issues which will likely frame the course of television service to the public for generations to come. For that very reason, however, it is imperative that,

<sup>1/</sup> FCC 96-207, released August 14, 1996.

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at this stage, the Commission make meaningful provision for the survival and healthy maintenance of the LPTV service in a DTV environment. Only through that course may the public be assured of the continuation of an exclusively local television service throughout the nation.

In here relevant part, the Notice properly acknowledges the significance of the LPTV service<sup>2/</sup> and, in general, expresses a purpose to accommodate that service to the extent feasible incident to the overall transition to a DTV environment. Although a laudable bent, it is respectfully submitted that the Commission can and should act now to assure such accommodation rather than to leave the service's survival essentially to chance and lot in the wake of the transition of the full power service to DTV.

It is the principal purpose of the instant comments to demonstrate that the Commission is obliged to make specific provision for the meaningful survival and continued operation of the LPTV service as a function of this proceeding. Although reference is made to SCCC's own operations, it is acknowledged that such circumstances are not unique and are principally reflective of a host of publicly valuable, long-term LPTV operations throughout the nation.<sup>3/</sup>

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<sup>2/</sup> See, e.g., Notice, at ¶67.

<sup>3/</sup> SCCC is also a member of the Community Broadcasters Association ("CBA") which represents numerous LPTV interests nationwide. SCCC has reviewed CBA's comments herein and fully supports the gravamen thereof.

## EXPOSITION

As are many other LPTV operators, SCCC is a long-term Commission licensee which has been involved in broadcasting for a substantial period.<sup>4/</sup> In relative terms, SCCC is an LPTV "pioneer", having begun its LPTV operations in 1989 and now operating the following eleven LPTV stations:

Evansville, IN  
WJPS-LP (Ch. 4)  
WIKY-LP (Ch. 5)  
W52AZ  
WEOA-LP (Ch. 67)

Mt. Vernon, IN  
W66CT

Nashville, TN  
WRMX-LP (Ch. 12)  
WJDE-LP (Ch. 24)  
W68CG

Knoxville, TN  
WEZK-LP (Ch. 34)

Sevierville, TN  
WYHY-LP (Ch. 22)

Louisville, KY  
W49AX

In the main, these stations provide programming to their communities which is not available through the major network-affiliated stations in those markets and which also emphasizes coverage of local issues and events. Reflective of that course are the several industry

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<sup>4/</sup> SCCC is a family-owned entity which began broadcast operations in 1954 (e.g., WIKY-AM, then a 250 watt daytime station in Evansville, IN). It operated UHF station WTVK (the predecessor of Station WKXT-TV, Ch. 8, Knoxville, TN) for virtually three decades and presently operates eight radio stations in three "heartland" markets, e.g., Knoxville, Nashville, TN, and Evansville, IN.

awards received by Station W52AZ, Evansville, IN, for its coverage of local sports and other events.

Should the Commission persist in its extant policy proposals for effecting the transition to DTV for full power stations, it is reasonably clear that SCCC's LPTV services – and those of many comparably situated LPTV stations – will be subject to virtually summary extinction depending only upon what channels, if any, may be "left over" for them in various markets, at various times and in various circumstances after provision is made for the full power transition.<sup>5/</sup> It is equally clear, however, that such a result is not a necessary incident of the DTV conversion and that it may be avoided by available and appropriate Commission actions at this point.

As a threshold matter, it is reasonably clear that the principal threat to continued LPTV viability and, indeed, the cause of many of the difficulties generally attending full power conversion to DTV, derive from the Commission's proposal to employ the "Core Spectrum Option" in effecting the DTV conversion.<sup>6/</sup> In relevant part, that proposal would largely restrict television broadcasting to the spectrum between existing television Channels 7 and 51 to the exclusion of Channels 2-6 and 52-69. The Notice acknowledges that the Commission's proposal, coupled with the related intent to "recover" Channels 60-69 "... are likely to have a significant impact upon low power stations ..." Id. at ¶66.<sup>7/</sup> Although the Commission there opined that such impact would be offset by perceived "benefits and innovations" otherwise (Id.), it is

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<sup>5/</sup> See, e.g., Notice, at ¶66.

<sup>6/</sup> Notice at ¶19, et seq.

<sup>7/</sup> By way of example, six of SCCC's eleven LPTV operations (see page 3, supra) are on channels outside the "core" DTV universe, and three of those six are in the Channel 60-69 grouping.

respectfully submitted that the record to date does not support that conclusion. Rather, it dictates that all relevant interests would be substantially better served by initially using the entire television band to effect the overall DTV conversion, leaving for a subsequent time considerations of spectrum recapture and the like.<sup>8/</sup>

Assuming, arguendo, that the Commission were to persist in the "core" allocation proposal, it should do so only in concert with specific rules and/or standards which would assure the meaningful survival of the LPTV service -- in a DTV environment -- to the maximally feasible extent. Laudably, the Notice poses for consideration certain policies and standards that might be employed to that end. Consistent with that approach, SCCC would urge the adoption of the following provisions:

- Use of the Extra-Core Channels By  
Otherwise Displaced LPTV Operations

To the extent that an existing LPTV station may be displaced and unable to locate a replacement channel in the "core" DTV spectrum, specific provision should be made for that station's operation on an extra-core channel. Indeed, the Notice appears to contemplate such provision in various ways. Thus, the set aside of frequencies in the Channel 52-59 grouping for use by displaced LPTV stations is recognized as a possible course (Notice, at ¶70). That prospect presents the additional virtue, as noted by the Commission, of establishing a "guard band" vis-a-vis any future nonbroadcast operations. Id.

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<sup>8/</sup> We do not address here the merits of the apparently intended auctioning of the Channel 60-69 grouping. There is, however, no demonstrated requirement to achieve that over the near term. That is particularly so given the prospect, discussed infra, that some otherwise displaced LPTV operations may be accommodated therein.

As well, and to the extent possibly necessary to further accommodate displaced LPTV stations, a portion of the Channel 60-69 grouping may properly be set aside for such stations just as the now proposed Table of Allotments employs that spectrum for a number of full power DTV assignments. Again, the Notice properly contemplates such action (Id. at ¶s26-27 and Note 37).

Although it is preferable that provision be made initially for LPTV operation within the "core" spectrum, there is no evidence that either of the above undertakings would have a materially adverse impact upon the overall transition of the full power universe to DTV operations. Conversely, either or both, as alternatives, would plainly serve the public interest by reasonably providing a vehicle for the continuation of a valuable service in a DTV transition environment.

- Application/Assignment Priorities  
for LPTV Operations

The Notice recognizes that, on a "core" spectrum allocation basis, an undetermined but not insubstantial number of LPTV operations will face displacement and properly inquiries as to the means by which such circumstances might be ameliorated. It inquires also as to whether and, if so, how LPTV stations may be accorded priorities as to seeking newly available channels in the post-transition environment and whether such operations should, under certain circumstances, be entitled to seek "primary" assignments. As discussed further below, SCCC submits that the Commission must, as a function of this proceeding, specifically provide maximally feasible priorities to displaced LPTV stations to assure their timely acquisition of

replacement channels. It should, as well, provide for the acquisition of primary status by existing LPTV stations, on a priority basis, as currently used channels become vacant.

As to LPTV stations which would be directly displaced by conflicting, full power DTV operations, the Notice discusses various standards and procedures which may be employed to provide for the timely and efficient acquisition of a replacement facility by such stations (Id. at ¶67).<sup>9/</sup> SCCC generally supports the adoption of such provisions and urges their specific articulation by rule. As a minimum, the following basic elements should be provided for:

- Where the finally adopted Table of Allocations makes a full-power DTV assignment which is mutually exclusive with the continued operation of a then-existing LPTV station, that station may apply for an available replacement channel at any time thereafter. It may be directed that such application should specify, in a descending order of priority, an available and suitable channel in the "core" spectrum; the Channel 52-59 grouping, and the Channel 60-69 grouping.
- Such applications should not be subject to competing applications and would be accorded processing priority where appropriate to accommodate a co-pending application for the related full power DTV modification.
- Alternatively, such affected LPTV station may file in the same timeframe, and on a non-competitive basis, an application to modify its existing operation to cure or prevent interference to the related full-power DTV operation.

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<sup>9/</sup> An example of such potential, direct displacement is seen in the proposed allocation of DTV Channel 49 at Louisville where SCCC presently operates LPTV Station W49AX. Such displacement could also occur as to SCCC's LPTV Station WJPS-LP (Channel 4) at Evansville, IN, given the Commission's expressed concern with the use of that channel vis-a-vis cable terminal devices. Notice, at ¶73.

It is also appropriate, and would agreeably conduce to the long-term viability of LPTV services generally, that the Commission now make specific provision for according existing LPTV stations priority in applying for, on a primary basis, those "core" spectrum channels that will be vacated as a result of the full power transition to DTV. (See Notice, at ¶51 and 72). Such applications should be subject to competing applications only by other existing LPTV stations in the same community or market and filed during a "window" established by the Commission.

The Notice inquires (¶72) as to what if any standards ought be imposed so as to qualify an existing LPTV station to apply for such post-transition, available channels. SCCC agrees with the Commission's suggestion therein that, as a minimum, such an LPTV applicant should demonstrate its then compliance – and commit to future compliance – with the programming and other public interest standards articulated in the 1992 Cable Act respecting LPTV must carry entitlements on cable television systems. Id.

The procedures and standards suggested above are not exhaustive of those that may reasonably be instituted in furtherance of assuring the continued viability of the LPTV service in a DTV environment. As well, they may possibly be modified in certain respects so long as the essential purpose and goals endure in the final articulation. Further, the Commission should now fully explore the wide variety of potential modifications in the technical standards affecting LPTV operations, such modifications in themselves potentially avoiding the displacement of many LPTV operations otherwise.<sup>10/</sup>

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<sup>10/</sup> In this respect, the Commission is commended to the detailed and extensive discussion of such modifications presented in the initial comments of the Community Broadcasters Association herein.



Finally, consistent with the national interest in providing for the long-term survival of the LPTV service in a DTV environment - - coincident with such operations by full power stations - - the Commission should now make specific provision for the ultimate migration to digital operation by as many existing LPTV stations as feasible. In furtherance of achieving that public interest goal, LPTV stations should be accorded the first opportunity to apply for unassigned DTV allocations after the needs of the full service universe have been reasonably accommodated. As well, such LPTV assignments ought be made on a permanent, rather than "secondary" basis. To the extent that there was previously a sustainable rationale for relegating LPTV to a secondary status, that circumstance would plainly not obtain in a post-DTV conversion environment.

Respectfully submitted,

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